

§ 1403.20 Referral of debts to private collection agencies.

If CCC's collection efforts have been unsuccessful after 90 days and the delinquent debt remains unpaid, CCC may refer the debt to a private collection agency for collection.

§ 1403.21 Collection of 1988 and 1989 advance deficiency overpayments.

(a) The provisions of this section set forth the policies and procedures for collection of 1988 and 1989 advance deficiency overpayments ("overpayments").

(b) The following definition shall be applicable to this section:

Financial hardship means that condition of a producer in which payment of the debt by lump sum would jeopardize the producer's ability to provide food, shelter, and medical care to his immediate family, or to continue the producer's farming operation, as determined by CCC.

(c) This section applies to collection of overpayments from those producers who are suffering financial hardship, as determined by CCC, and who also meet the following conditions, as determined by CCC:

(1) Who received an advance deficiency payment for the 1988 or 1989 crop of a commodity under part 1413 of this chapter;

(2) Who are required to provide a refund of at least \$1,500 of such payment, as a result of the increase in market prices of the commodity;

(3) Who reside in a county, or in a county that is contiguous to a county where CCC has determined that farming, ranching, or aquaculture operations have been substantially affected as evidenced by a reduction in normal production for the county of at least 30 percent during two of the three crop years 1988, 1989, and 1990 by:

(i) A natural disaster designated by the Secretary of Agriculture;

(ii) A major disaster or emergency designated by the President under the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*);

(4) Where the total quantity of the 1988 or 1989 crop of the commodity that the producers were able to harvest is less than the result of multiplying 65

percent of the farm payment yield established CCC for the crop by the sum of the acreage planted for the harvest and the acreage prevented from being planted (because of the disaster or emergency referred to in paragraph (c)(3) of this section) for the crop; and

(5) Who have applied to the County Farm Service Agency Office which issued the advance deficiency payment, no later than May 31, 1991, for a determination of eligibility for the repayment provisions of this section.

(d) CCC shall assess interest on delinquent debts for 1988 or 1989 overpayments as follows:

(1) CCC shall establish a regional annual interest rate for each of 12 geographic regions, corresponding to the extent practicable, as determined by CCC, with the 12 geographic districts of the Farm Credit System.

(2) Each regional annual interest rate shall not exceed the average of the interest rates charged by Farm Credit System institutions within the region to high-risk borrowers on 1-year operating loans, as determined by CCC based upon information provided to CCC by the Farm Credit System.

(3) Interest shall accrue at the established regional annual interest rate for the region in which the debt arose, beginning November 28, 1990.

(e) CCC shall not offset, in each of the crop years 1990, 1991, and 1992, more than $\frac{1}{3}$ of the farm program payments otherwise due a producer, as a result of the producer's delinquency in repaying the overpayment.

(f) CCC shall permit producers to repay the overpayment in three equal installments during each of the crop years 1990, 1991, and 1992, if the producers document to CCC that they have entered into agreements to obtain multiperil crop insurance policies for the 1991 and 1992 crop years.

[56 FR 32319, July 16, 1991]

PART 1404—ASSIGNMENT OF PAYMENTS

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AUTHORITY: 15 U.S.C. 714b and 714c; 16 U.S.C. 590h(g).

SOURCE: 54 FR 52883, Dec. 22, 1989, unless otherwise noted.

§ 1404.1 General statement.

This part sets forth the manner in which a person may assign a cash payment which is made by the Farm Service Agency (FSA) or the Commodity Credit Corporation (CCC). Such payments may only be assigned in the manner set forth in this part.

§ 1404.2 Definitions.

(a)(1) *Assignee* means any person, including any agency of the Federal Government, to whom an assignment of an FSA or CCC payment is made in accordance with this part.

(2) *Assignor* means any person who is the recipient of a payment from FSA or CCC who assigns the payment to another person in accordance with this part.

(3) *Payment* means a cash payment and excludes

(i) Any payment made in accordance with part 1470 of this title;

(i) Price support loan or purchase agreement proceeds; and

(iii) Any payments made in accordance with parts 1487, 1488, 1491, 1492, and 1493 of this title.

(b) The terms defined in parts 719, 1413, 1421 and 1427 shall also be applicable to this part.

§ 1404.3 Payments which may be assigned.

Except as otherwise provided in this part or in individual program regulations, contracts and agreements entered into by FSA or CCC, any payment due a person from FSA or CCC may be assigned.

[54 FR 52883, Dec. 22, 1989, as amended at 56 FR 361, Jan. 4, 1991]

§ 1404.4 Execution of assignment form.

(a)(1) The assignment of any FSA or CCC payment must be made by the execution of Form CCC-36 or Forms CCC-

251 and CCC-252. Form CCC-36 is applicable to payments made under programs administered in accordance with 7 CFR parts 701, 704, 1413, 1430, 1468, 1472 and 1475. Such form is also applicable to any other program which is administered by a county ASC committee. Forms CCC-251 and 252 are applicable to all other CCC or FSA programs and contracts.

(2)(i) To be recognized by FSA or CCC, Form CCC-36 must be filed in the county FSA office prior to the time the county committee approves the making of the payment covered by the assignment. To be recognized by FSA or CCC, Forms CCC-251 and 252 must be filed with the FSA or CCC office from which the payment will be made prior to the making of the payment.

(ii) Form CCC-36 or Forms CCC-251 and 252 must be signed by both the assignor and the assignee.

(3) The assignor and the assignee shall promptly notify the appropriate FSA or CCC office of any change affecting the assignment.

(b) [Reserved]

[54 FR 52883, Dec. 22, 1989, as amended at 56 FR 361, Jan. 4, 1991]

§ 1404.5 [Reserved]

§ 1404.6 Payment to the assignee.

(a) The assignee shall be paid the smaller of the amount specified on Form CCC-36 or CCC-251 or the amount of the payment earned under the program or contract covered by the assignment. Any indebtedness owed by the assignor to CCC, FSA, or any other agency of the United States shall be subject to offset.

(b) Any indebtedness owed by the assignor to CCC or FSA shall be offset from any payment which is owed by CCC or FSA without regard to the date of filing of a Form CCC-36 with the applicable FSA or CCC office. Except as provided in paragraph (d) of this section, any indebtedness owed by the assignor to CCC or FSA shall be offset from any payment which is owed by CCC or FSA if such indebtedness was entered on the debt record of the applicable FSA or CCC office prior to the date of the filing of Forms CCC-251 and 252 with the applicable FSA or CCC office.

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(c) Any indebtedness owed by the assignor to any agency of the United States other than CCC or FSA which was entered on the debt record of the applicable FSA or CCC office prior to the date of filing of the Form CCC-36 or Forms CCC-251 and 252 with such office shall be offset prior to the making of any payment to the assignee.

(d) Any indebtedness arising under a contract between the assignor and FSA or CCC which is the subject of the assignment shall be offset from the payment prior to the making of any payment to the assignee under such contract without regard to the date of the filing of Form CCC-36 or Forms CCC-251 and 252 with the appropriate FSA or CCC office.

§ 1404.7 Misrepresentations.

If FSA or CCC has reason to believe that any material misrepresentation was made by the assignor or the assignee in executing Forms CCC-36, CCC-251 or CCC-252, FSA or CCC shall give notice thereof to the assignor and the assignee. If, after investigation and opportunity for the assignor and assignee to be heard, FSA or CCC finds that any material misrepresentation was in fact made, FSA or CCC shall notify the assignor and the assignee of such finding, and void such assignment, and insofar as concerns FSA, CCC or any other agency of the United States, the assignment shall be of no effect.

§ 1404.8 Liability of the Secretary or disbursing agents.

Neither the United States, the CCC, the Secretary nor any disbursing agent shall be liable in any suit if payment is made to the assignor without regard to the existence of any assignment, and nothing contained herein shall be construed to authorize any suit against the United States, the CCC, the Secretary or any disbursing agent if payment is not made to the assignee, or if payment is made to only one of several assignees.

§ 1404.9 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this part have been

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approved by the Office of Management and Budget under the provisions of 44 U.S.C. 35 and have been assigned OMB control number 0560-0004.

PART 1405—LOANS, PURCHASES, AND OTHER OPERATIONS

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AUTHORITY: 7 U.S.C. 1515; 7 U.S.C. 7991(e); 15 U.S.C. 714b and 714c; and Public Law 108-470.

SOURCE: 61 FR 37575, July 18, 1996, unless otherwise noted.

§ 1405.1 Interest.

(a) Except as may otherwise be determined by CCC as provided in individual program regulations, program contracts or such other means as deemed appropriate by CCC the rate of interest that is applicable to CCC loans shall be equal to the rate of interest charged by the U.S. Treasury for funds borrowed by CCC on the date the loan is disbursed by CCC, plus 1 percent. This rate of interest shall be in effect until the earlier of the maturity of the loan or the next January 1.

(b) The rate of interest applicable to all CCC loans that are outstanding as of January 1 of any year shall be adjusted as of such date to equal the rate of interest charged by the U.S. Treasury for funds borrowed by CCC on such date, plus 1 percent. This rate shall be in effect until the earlier of the maturity of the loan or the next January 1. The rate of interest applicable to CCC loans as of January 1 of any year shall be announced by CCC by press release or other means.

§ 1405.2 Basic rule of fractions.

Fractions shall be rounded in accordance with the provisions of 7 CFR part 718.